



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 23, 1995

Mr. Richard Ybarra  
Assistant Attorney General  
General Litigation Division  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR95-1113

Dear Mr. Ybarra:

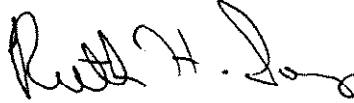
You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26648.

The Office of the Attorney General received an open records request for certain records that you contend may be withheld from the public pursuant to the Open Records Act, section 552.103(a) of the Government Code. To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). You inform us that since this request was made, that litigation has commenced relating to the documents requested. In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a).

However, it appears that the opposing parties to the anticipated litigation have previously seen or had access to some of the records at issue. Once information has been obtained by all parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We have marked the information that, on its face, has been seen by the opposing parties to the anticipated litigation. You may withhold the records at issue that the opposing party has not seen or had access to. The applicability of section 552.103(a) also ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). We note that since the section 552.103(a) exception is discretionary with the governmental entity asserting the exception, you may choose to release this information. Gov't Code § 552.007; Open Records Decision No. 542 (1990) at 4.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy".

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/rho

Ref.: ID# 26648

Enclosures: Marked documents.

cc: Mr. John Steven Dwyre  
7800 IH-10 West, Suite 230  
San Antonio, Texas 78230  
(w/o enclosures)